

Oct. 9, 2001 Referral Union Rules

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**Juanita:** Conducted four stakeholder meetings this summer, about 78 attended. Most were labor, about 6 business reps. We are familiar with NECA's concerns on this subject. Are interested in knowing if there are also concerns from wider business community. Department is deciding whether to proceed with rule-making and, if so, what the rules should say.

**Clif:** Yes, this issue is very important to the whole business community. The AWB legislative committee met this year to set the legislative agenda. To his surprise, of the two key policy objectives set, one is the accountability of ESD in monitoring the union referral program. There is some question regarding whether there will be adequate resolution of this issue by the department. It is a difficult issue for unionized employers. In interests of labor/management relations they don't speak up at public forums, but doesn't mean they don't have concerns.

No one in room can say if there is abuse of the system, because there is no standardized means of auditing the hiring halls. If ESD is turning over monitoring of job search to a third party, they need an accountability system.

No one can say if entire system as a whole is broken. Most disturbing is the inability of the department to give an answer in a standardized manner. The overwhelming majority of the costs in this program are socialized and picked up by the rest of the employer community.

Want resolution before legislative session. Nothing should be taken as a criticism of the hiring hall system, or advocating actions that would impact the operations of the hiring halls. The union hiring system should be one of the most effective in the state. Won't advocate changes that allows department to go beyond UI.

Need to significantly strengthen the audit procedures. There is a break between department and where handed over to union hiring halls. Has to be accountability. Need to work with employers to address their concerns.

Unusual that, with all other issues out there, this one has become key.

**Rick:** It's a question of confidence. Employers have concerns about socialized costs. Causes problems between union/non-union organizations, those that don't trust government, etc. Need to adopt clear, high profile rules. Years ago, asked for copy of union/ESD agreements. None has been produced—ESD unable or

unwilling to locate except for one-pager. Don't have ability to find out how system is working. System could be very good, but can't tell. No criteria, procedures, or accountability. Lack confidence in department. Not in position to dictate solution, but ESD needs to adopt high profile rules with qualifications for participation and accountability. Can disagree with what is finally adopted, but at least will know what the rules of the game are. AGC has wide array of perspectives among its members.

**Steve:** NECA has invested \$350,000 in this issue so far. Study by UW says \$3.4 million is the cost to NECA contractors for benefits improperly paid to claimants not looking for work. His conclusion—department could care less about employers. Only invited labor to the rules meetings, so no surprise that business didn't show up. Department has consistently lied to NECA. Quoted letter from Annette, saying NECA could not attend meeting she requested with Local 46; deposition testimony of Gwendolyn Lee, Local 46, was their attorneys requested the meeting. In January, Paul Trause said the department would have rules by February 1, and here it is October. Did not look at proof of fraud by union provided by NECA to department. In meeting with Commissioner Carver Gayton, he said the department would not take action because of pending litigation. Then in deposition testimony, Annette said fact of ongoing litigation would not prevent department from looking at fraud.

Through its circulars, department has stopped NECA from pursuing fraud. Even with pages of proof of fraud, department has yet to review Local 46. Putting up roadblocks at every turn to try to stop NECA. All NECA is trying to do is what's right.

**John:** This is the first time ESD has taken a group of 70 employers (NECA) and changed the rules five times to make it impossible for that one group to fight fraud.

**Norm:** Concerned with equity; all employers have to be treated equally. The system with hiring halls is different, but still needs to be held to the same standard. Some things that need to be fixed. Still need same mission or goals—available and actively seeking work to be eligible for UI.

There are three parties to this issue—ESD, the employer, and the union. To say one isn't an interested party is not realistic. There's something wrong if an employer can't question a worker's eligibility for UI. Many halls don't know there's a problem. Is surprised department says employers don't have standing, and that we don't have a way for them to raise issues. Employers shouldn't have to prove fraud first.

**Rick:** This system is artifice utilized by department over the years. View it as a contracted operation. Union members should be held to same standards as

non-union. May be using different procedures but criteria, standards, and accountability should be the same.

**Clif:** Bottom line is the current business practices don't pass the straight face test for accountability. The department just saying that duration for union members is comparable or even lower isn't accountability; what Rick is talking about is. We have nothing comparable to job search monitoring for hiring halls. Not arguing for calling people into office, but need some accountability. By definition, duration for hiring hall members should be less. But overall generalized data doesn't mean specific halls or individual members are doing what they should. Members do have to go into the hiring halls, and department needs method for ensuring this is done. Needs to be a way to enable free flow of information between employers and department.

**Steve:** No check and balance to system. Had two ESD staff in his office for three days auditing his records—nothing in place to audit unions.

**Rick:** How does the department know unions are doing what they're supposed to. Need access to audit hiring halls. Can't deliver any stronger the message that rules are needed or the situation will only get worse. Those trying to do it right will be the ones to suffer.

**Clif:** The union referral system should give employers an advantage; should be one of most effective tools to obtain qualified workers. But the lack of accountability puts employers at a disadvantage. However, don't make auditing authority broader than it has to be—limit to UI only.

**Rick:** The threshold is adopting a formal rule—we're serious on this subject.

**Steve:** John challenged someone who was travelling across country with family and stopping in hiring halls along the way to check in. How is this person truly available for work?

**John:** The information needed by employers to monitor their employees is already available—Q10 reports. Can look to see if more senior person was paid benefits, then challenge eligibility.

**Norm:** Black market bidding by union members is rampant. (?)

**Clif:** There will always be anecdotal problems. Need accountable system developed. Can't address through general industry averages and data.

**Steve:** Study showed 990 people over three years got at least one week of benefits without signing in at the hiring hall.

**Rick:** Need measure of fairness. Can be resolved by rule-making; process is set up to establish confidence. No matter what the final product is, everyone will know what the standards are.

**Steve:** Go back to circular 3-94, eliminate the supplement, and add audit process.

**Clif:** Do what department does to employers—audit at random. Other than being given general union data, has been no measure of accountability.

**Steve:** Not fair to the unions to require them to turn in their union brothers. An audit program will take the onus off the union.

**John:** Want language in questionnaire sent to employer that is more clear. Tried to work with Dale Ziegler to get it changed.

**Steve:** Can't come down here and say the system is broken, but need credibility in system.

**Clif:** Could bring in enough employers to fill the room, but not really necessary. The issue stands on its own.

**Rick:** His members have had little disagreement about need to adopt rules, though might disagree about content.

**Clif:** This policy needs to be adopted as a rule. Meets APA definition of a rule—is of general applicability and subjects people to penalty. If no resolution by January, there will be legislation introduced. His hope is for internal resolution so that need for legislation becomes moot.